

## § 27.7

areas of operation of the recipient, contractor or subcontractor which offer and provide services, financial aids, and other benefits; it shall identify those services, financial aids, and benefits; analyze the opportunities available to minorities and women in each area; and set forth affirmative action, including goals and time tables, which will be taken to materially increase participation of minorities and women.

(b) *Employment practices.* The implementing plan shall address all aspects of employment operations and is required to contain all analyses and commitments, including goals and time tables, which are required in rules, regulations, and orders implementing Executive Order 11246, as amended, and to include additional commitments to employment goals for minorities and women in construction operations, to the extent that those goals are not established under Executive Order 11246.

(c) *Contracting practices.* Recipients to which this part applies and each of their contractors and subcontractors with a contract of \$150,000 or more shall also include in their affirmative action plan a program in which the recipient, contractor or subcontractor agrees to take specific affirmative action as set forth below to utilize minority business enterprises as subcontractors and suppliers. For this purpose, the term *minority business enterprise* means a business enterprise that is owned or controlled by minority group members or women. The plan shall identify specific actions which the recipient, contractor or subcontractor will take to:

(1) Designate a liaison officer who will administer the minority business enterprises program;

(2) Provide adequate and timely consideration of the potentialities of minority business enterprises in all contracting decisions;

(3) Afford minority business enterprises an equitable opportunity to compete for contracts and subcontracts by arranging solicitations, time for preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises;

(4) Submit periodic reports of contracting opportunities, procedures, and

## 43 CFR Subtitle A (10-1-07 Edition)

awards to minority business enterprises, at such times, and in such form, and containing such information as the Department Compliance Officer may prescribe, including reports showing:

(i) Procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises;

(ii) Awards to minority business enterprises on the source lists, and

(iii) Specific efforts to identify and award contracts to minority business enterprises.

(5) Establish specific goals and time tables to utilize minority business enterprises in the performance of contracts awarded.

(6) Inform minority business enterprises and organizations of minority business enterprises of contracting opportunities and procedures.

(7) Cooperate with the Department Compliance Officer in any studies and surveys of the recipient's minority business enterprise procedures and practices that the Department Compliance Officer may from time to time conduct.

(8) Assist potential minority business enterprises in obtaining and maintaining suitable bonding capabilities, in those instances where bonds are required.

(d) *Exemption.* Contracts and subcontracts are exempt from the requirements of the equal opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States.

### § 27.7 Compliance information.

(a) *Records, reports, and access to books.* Each recipient, contractor, or subcontractor to which this part applies, shall keep such records and submit to the Department Compliance Officer complete and accurate reports, at such times, and in such form, and containing such information, as he may determine to be necessary to enable him to ascertain whether the recipient, contractor or subcontractor has complied or is complying with rules, regulations and orders implementing section 403 of Public Law 93-153. In the case where the recipient, contractor or

subcontractor contracts with another, such other contractor shall also submit such compliance reports to the recipient, contractor or subcontractor as may be necessary to enable the recipient, contractor or subcontractor to determine and carry out his obligations under section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(b) *Access to sources of information.* Each recipient, contractor and subcontractor to which this part applies, shall permit access by the Department Compliance Officer or his designee or by the Secretary or his designee during normal business hours to such of his books, records, accounts, and other sources of information, and his facilities, as may be pertinent to ascertain compliance with rules, regulations, and orders implementing section 403 of Public Law 93-153.

(c) *Information in possession of other agency, institution, or person.* Where any information required of a recipient, contractor or subcontractor is in the exclusive possession of any other agency, institution, or person and such agency, institution or person shall fail or refuse to furnish this information, the recipient, contractor or subcontractor shall so certify in a report and shall set forth what efforts it has made to obtain the information.

(d) *Failure to submit reports.* Failure to file timely, complete and accurate reports as required constitutes non-compliance with the equal opportunity clause and is ground for the imposition by the agency, recipient, contractor, or subcontractor of any sanctions as authorized by section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(e) *Information to beneficiaries and participants.* Each recipient, contractor and subcontractor to which this part applies, shall make available to participants in and beneficiaries of its operations and services, information regarding the provisions of this part and the details of the recipient's, contractor's or subcontractor's compliance with this part, to the extent that it will enhance their participation in non-discrimination programs of recipient, contractor, or subcontractor, and aid the recipient, contractor, or subcon-

tractor in meeting its obligations under this part.

#### § 27.8 Compliance procedures.

(a) *Approval of affirmative action plans.* The Department Compliance Officer shall from time to time review the recipient's, contractor's or subcontractor's affirmative action plans to determine whether they meet the requirements of rules, regulations and orders implementing section 403 of Public Law 93-153. Where deficiencies are found to exist, the Department Compliance Officer or his designee will so inform the recipient, contractor or subcontractor and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 27.9.

(b) *Periodic compliance reviews.* The Department Compliance Officer shall from time to time review the practices of recipients, contractors and subcontractors to determine whether they are complying with the rules, regulations and orders implementing section 403 of Public Law 93-153. The purpose of the compliance review is to determine if the recipient, contractor or subcontractor maintains nondiscriminatory operations and practices and whether it is taking the action required by the rules, regulations, and orders implementing section 403 of Public Law 93-153 to assure that no person on the grounds of race, creed, color, national origin or sex is excluded from receiving or participating in any activity conducted under any permit, right-of-way, public land order or other Federal authorization to which this part applies. It shall consist of a comprehensive analysis of all aspects of the recipient's, contractor's or subcontractor's operations and practices which may be involved, and the policies and conditions resulting therefrom. Where necessary, recommendations for appropriate sanctions shall be made.

(c) *Complaints.* Any person who believes himself or any other individual to be subjected to discrimination prohibited by this part may file with the Department Compliance Officer or his designee, a written complaint. A complaint must be filed not later than 180